

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DUANE MILLER,

Plaintiff,

-v-

3:07-CV-1093 (LEK/VEB)

MICHAEL J. ASTRUE, Commissioner
of Social Security,¹

Defendant.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on July 29, 2009, by the Honorable Victor E. Bianchini, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(d) of the Northern District of New York. Report-Rec. (Dkt. No. 20).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to the Report-Recommendation filed by Judge Bianchini. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

¹ Michael J. Astrue became Commissioner of Social Security on February 12, 2007. Pursuant to Federal Rule of Civil Procedure 25(d), Michael J. Astrue is substituted as the Defendant in this action for Jo Anne B. Barnhart.

ORDERED, that the Report-Recommendation (Dkt. No. 20) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

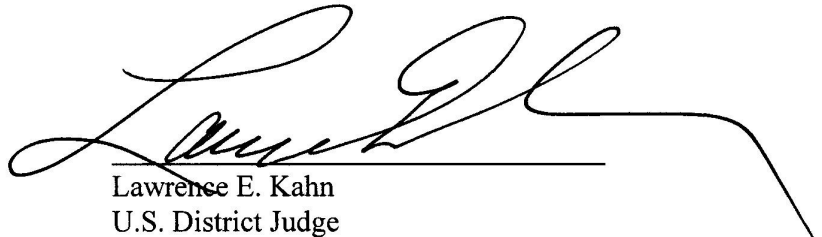
ORDERED, that Plaintiff's Motion for judgment on the pleadings is **DENIED** and Defendant's Motion for judgment on the pleadings is **GRANTED**; and it is further

ORDERED, that the Complaint (Dkt. No. 1) is **DISMISSED** in its entirety; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: August 19, 2009
Albany, New York



Lawrence E. Kahn
U.S. District Judge